

REMARKS

Applicants have received and carefully reviewed the Office Action of the Examiner mailed March 29, 2011. Applicants respectfully traverse (and do not concede) all objections, rejections, and adverse assertions made by the Examiner. With this paper, claim 22 has been amended. Support for the amendments is found in the specification, claims, and drawings as originally filed. No new matter has been added. Claims 22, 24-28, and 30-37 remain pending, with claims 31-34 and 36 previously withdrawn. Favorable consideration of the above amendments and the following remarks is respectfully requested.

Claim Rejections under 35 U.S.C. § 112

Claims 22, 24,-26, 28, 30, and 37 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner asserts, “[t]here is insufficient support in the originally filed disclosure for the limitation of the seal member having a solid cross-section, as recited in claim 22.” While Applicants do not concede the correctness of the rejection, in the interest of furthering prosecution in a timely manner, independent claim 22 has been amended to remove the limitation of the seal member having a solid cross-section. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim Rejections under 35 U.S.C. § 103

Claims 22, 24-26, 28, and 30 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Matsumoto et al. (U.S. Patent No. 4,610,665) in view of Picha et al. (U.S. Patent No. 5,080,654), and Rauker et al. (U.S. Patent No. 6,475,185). Claim 35 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Rauker et al. (U.S. Patent No. 6,475,185) in view of Picha et al. (U.S. Patent No. 5,080,654), McClure et al. (U.S. Patent No. 5,507,732), and Andrews et al. (“The Comparison of Certain Commercial Getters”, 1931). Claim 37 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Matsumoto et al. (U.S. Patent No. 4,610,665) in view of Picha et al. (U.S. Patent No. 5,080,654), Rauker et al. (U.S. Patent No. 6,475,185), McClure et al. (U.S. Patent No. 5,507,732), and Andrews et al. (“The Comparison of Certain Commercial Getters”, 1931). Applicants respectfully traverse these rejections.

Rauker et al., which has a filing date of February 24, 2000 and a publication date of November 5, 2002 is available as prior art to the current application, if at all, only under 35 U.S.C. §102(e). However, 35 U.S.C. §103(c) applies in this instance to remove the reference as prior art against the current application under 35 U.S.C. §103(a). See M.P.E.P. §2136.01 and §2146. Both Rauker et al. and the current application were owned by or subject to an obligation of assignment to the same person at the time the claimed invention was made.

An Assignment from the inventors to Scimed Life Systems, Inc. for Rauker et al. can be found at Reel 010635, Frame 0360, recorded on February 24, 2000. An Assignment of the current application from the inventors to Scimed Life Systems, Inc. can be found at Reel 011570, Frame 0430. Accordingly, Rauker et al. is disqualified as prior art in formulating the obviousness rejections under the provisions of 35 U.S.C. §103(c). Withdrawal of the rejections is respectfully requested.

Conclusion

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,
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By their Attorney,

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